

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
WESTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

REYNALDO URBINA-SOTRES,
a/k/a Enrique Rico, Jr.,

Defendant.

No. 05-CR-4037-DEO

**ORDER REGARDING REPORT AND
RECOMMENDATION CONCERNING
GUILTY PLEA**

I. INTRODUCTION AND BACKGROUND

On March 16, 2005, a One Count Indictment (Docket No. 1) was returned against defendant Reynaldo Urbina-Sotres, a/k/a Enrique Rico, Jr.

Count One of that Indictment charges that defendant Reynaldo Urbina-Sotres, on or about February 28, 2005, in the Northern District of Iowa, an alien who had been previously removed from the United States on or about July 28, 2001; was found, knowingly and unlawfully, in the United States, in Woodbury County, after re-entering the United States without first obtaining the consent to apply for readmission into the United States from either the United States Attorney General or Secretary for Homeland Security, all in violation of Title 8, United States Code, Section 1326(a). A notice was included

in the Indictment which indicated that the defendant was convicted of possession of controlled substance with intent to distribute in the District Court of Tulsa, State of Oklahoma, and sentenced to six years jail, suspended. Pursuant to Title 8, United States Code, Section 1326(b), this prior conviction increases the maximum statutory sentence that can be imposed upon a conviction for this charge.

On April 4, 2005, defendant Reynaldo Urbina-Sotres appeared before United States Magistrate Judge Paul A. Zoss and entered a plea of guilty to Count One of the Indictment. On the same date, April 4, 2005, Judge Zoss filed a Report and Recommendation (Docket No. 15) in which he recommends that defendant Reynaldo Urbina-Sotres' guilty plea be accepted. No objections to Judge Zoss's Report and Recommendation were filed. The Court, therefore, undertakes the necessary review of Judge Zoss's recommendation to accept defendant Reynaldo Urbina-Sotres' plea in this case.

II. ANALYSIS

A. Standard of Review

Pursuant to statute, this Court's standard of review for a magistrate judge's Report and Recommendation is as follows:

A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made. A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate [judge].

28 U.S.C. § 636(b)(1). Similarly, Federal Rule of Civil Procedure 72(b) provides for review of a magistrate judge's Report and Recommendation on dispositive motions and prisoner petitions, where objections are made as follows:

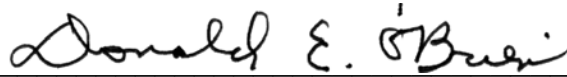
The district judge to whom the case is assigned shall make a de novo determination upon the record, or after additional evidence, of any portion of the magistrate judge's disposition to which specific written objection has been made in accordance with this rule. The district judge may accept, reject, or modify the recommendation decision, receive further evidence, or recommit the matter to the magistrate judge with instructions.

FED. R. CIV. P. 72(b).

In this case, no objections have been filed, and it appears to the Court upon review of Judge Zoss's findings and conclusions that there are no grounds to reject or modify them. Therefore, the Court accepts Judge Zoss's Report and Recommendation of April 4, 2005 (Docket No. 15), and accepts

defendant Reynaldo Urbina-Sotres' plea of guilty in this case to Count One of the Indictment filed on March 16, 2005.

IT IS SO ORDERED this 9th day of May, 2005.

A handwritten signature in cursive script, reading "Donald E. O'Brien".

Donald E. O'Brien, Senior Judge
United States District Court
Northern District of Iowa